

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT  
OF PENNSYLVANIA

\* \* \* \* \*

ROBERT LEE DEFOY,	*
Petitioner	* C.A. No.
vs.	* 00-110 ERIE
Superintendent JOHN M.	* District Judge
MCCULLOUGH, Att.	* McLaughlin
General D. MICHAEL	*
FISHER, PENNSYLVANIA	* Magistrate
BOARD OF PROBATION AND	* Judge Baxter
PAROLE,	*
Respondents	*

\* \* \* \* \*

DEPOSITION OF  
MICHAEL OCILKA  
August 16, 2006

COPY

Any reproduction of this transcript  
is prohibited without authorization  
by the certifying agency.

1 DEPOSITION

2 OF

3 MICHAEL OCILKA, taken on behalf of  
4 the Petitioner herein, pursuant to  
5 the Rules of Civil Procedure, taken  
6 before me, the undersigned, Lori A.  
7 Behe, a Court Reporter and Notary  
8 Public in and for the Commonwealth of  
9 Pennsylvania, at the offices of the  
10 Keystone Building, Office of Attorney  
11 General, 444 East College Avenue,  
12 Suite 440, State College,  
13 Pennsylvania, on Wednesday, August  
14 16, 2006, beginning at 11:45 a.m.

A P P E A R A N C E S

THOMAS W. PATTON, ESQUIRE

Assistant Federal Public Defender

1001 State Street

Erie, PA 16501

COUNSEL FOR PETITIONER

SCOTT A. BRADLEY, ESQUIRE

Office of Attorney General

564 Forbes Avenue

6th Floor, Manor Complex

Pittsburgh, PA 15219

COUNSEL FOR RESPONDENTS

I N D E X

WITNESS: MICHAEL OCILKA

EXAMINATION

by Attorney Patton

7 - 34

EXAMINATION

by Attorney Bradley

34 - 38

CERTIFICATE

39

EXHIBIT PAGE

PAGE

<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>IDENTIFIED</u>
A	SCI Houtzdale Psychological Evaluation for Parole	23

OBJECTION PAGE

ATTORNEY

PAGE

NONE MADE

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

P R O C E E D I N G S

-----  
MICHAEL OCILKA, HAVING FIRST BEEN  
DULY SWORN, TESTIFIED AS FOLLOWS:  
-----

EXAMINATION

BY ATTORNEY PATTON:

Q. Mr. Ocilka, can you tell us  
your full name please?

A. Michael George Ocilka.

Q. Spell your last name.

A. O-C-I-L-K-A.

Q. Mr. Ocilka, how are you  
employed?

A. I'm employed with the  
Department of Corrections in the  
State Correctional Institution of  
Houtzdale in the Psychology  
Department as a Psychological  
Services Specialist.

Q. How long have you had that  
position?

A. I believe seven-plus years.

Q. What did you do before that?

A. I did counseling with a

1 private practice in Johnstown,  
2 Pennsylvania, Family Practice and  
3 Associates. I worked for Cambria  
4 County Mental Health. These were  
5 part-time jobs. I was an  
6 investigator with the Office of  
7 Inspector General. I was a case  
8 worker with Cambria County Children  
9 and Youth Services. I worked in  
10 Cambria County Detention Home for a  
11 period of time, a brief period with  
12 the Cambria County Office on Aging.  
13 I think that covers my ---.

14 Q. Can you give me a rundown of  
15 your educational background?

16 A. Sure. I graduated from  
17 Indiana University of Pennsylvania in  
18 1974 with a Bachelor's degree in  
19 Criminology. I went back to Indiana  
20 in 1989 and graduated with a Master's  
21 in Counseling.

22 Q. Could you just give me a  
23 general description of what your  
24 duties are as a Psychological  
25 Services Specialist with the

1 Department of Corrections?

2 A. Sure. Specifically, I'm a  
3 Mental Health Coordinator for the  
4 facility, and I oversee a lot of the  
5 mental health issues, which includes  
6 monitoring the special needs unit,  
7 which is a block reserved for inmates  
8 with mental health problems.

9 Generally speaking, I perform risk  
10 assessments for the Office of Parole.

11 I provide individual  
12 counseling for inmates who request  
13 it. I do sex offender treatment  
14 group therapy for sex offenders. And  
15 I also do group therapy for special  
16 needs sex offenders, which are the  
17 guys who have severe mental health  
18 problems who low level of  
19 intellectual function.

20 Essentially, that's it. I  
21 write a lot of reports and insure  
22 that inmates receive adequate mental  
23 health services.

24 Q. Let's talk a little bit about  
25 your work in the sex offender group

1 treatment.

2 A. Sure.

3 Q. Can you give me a general  
4 description of the sex offender  
5 treatment program?

6 A. Sure. There is a therapeutic  
7 community at SCI Houtzdale which is a  
8 block or a pod of a particular  
9 housing unit which houses individuals  
10 who have been convicted of sex  
11 crimes. And on that particular  
12 block, we run a number of sex  
13 offender groups. And it consists of  
14 --- initially individuals come in and  
15 they take an orientation for a period  
16 of time.

17 Then they get involved in  
18 what's called a core group and that's  
19 essentially phase two to the program.  
20 The core group would run anywhere  
21 from 16 to 24 months in length. And  
22 during that period of time the  
23 offenders would present a life  
24 history, talk about their duty and  
25 cycle, deal with aspects of empathy.

1           And if at the conclusion, the  
2           facilitator believes at the  
3           conclusion of a program, all aspects  
4           of treatment have been met, the  
5           individuals in the group are then  
6           assessed by an assessment board,  
7           which consists of other  
8           psychologists. And then it's  
9           determined if they should issue a  
10          certificate in which they would have  
11          deemed to satisfactorily completed  
12          the program.

13        Q.          In the core treatment phase or  
14        phase two, talk about getting a life  
15        history from the individual. Does  
16        that life history include asking the  
17        individual to provide basically a  
18        detail of all the deviate behavior  
19        they've engaged in?

20        A.          Ideally, certainly.

21        Q.          In the situation where a  
22        person has been convicted of a sex  
23        crime, is part of the core treatment  
24        having the individual admit their  
25        guilt for that crime and admitting to

1 the official version of the offense?

2 A. Yes, that would be accurate,  
3 yes.

4 Q. And where does the official  
5 version come from?

6 A. The official version can be  
7 located in the inmate's file. And  
8 oftentimes, if available, we attempt  
9 to get the preset investigation which  
10 usually has a much more detailed  
11 official version.

12 Q. At any point in the program  
13 are inmates granted any kind of  
14 immunity from the Attorney General's  
15 office or any prosecuting agency that  
16 says that the statements they make in  
17 the treatment process cannot be used  
18 against them in any future criminal  
19 proceeding?

20 A. We advise the inmates that we  
21 want to know about the other  
22 behaviors which may have been  
23 deviant, but as long as they do not  
24 provide names or dates, we certainly  
25 are not in the position where we

1 would be able to pursue that  
2 criminally or report that. So we ask  
3 them not to provide names.

4 Q. Okay. Are they told that you  
5 --- let me put it this way. When you  
6 were doing private counseling, for  
7 example in your past, would it be  
8 common for you to discuss with the  
9 person you were doing your counseling  
10 session with the fact that your  
11 discussions were privileged and that  
12 you would not be --- you would be  
13 prevented from revealing any  
14 information that they may provide to  
15 you to any outside source?

16 A. Well, I would indicate that  
17 there would be, certainly there would  
18 be exceptions to that. The  
19 exception, for example, would be if  
20 they're suicidal, homicidal and they  
21 have an intended victim or if ---  
22 being a therapist, one is also a  
23 mandated reporter for children and  
24 youth. So in a private practice, if  
25 somebody reported a sexual abuse

1 situation, I'd be compelled by law to  
2 report that.

3 Q. Okay. Do you make similar  
4 statements to the inmates that are in  
5 the sexual treatment program  
6 concerning that the conversations  
7 they have with you are privileged,  
8 and you could only reveal them in  
9 situations if ---?

10 A. Yes.

11 Q. You told them that you cannot  
12 reveal that to anyone?

13 A. Well, again, there are  
14 exceptions. The exceptions change a  
15 little bit in the Department of  
16 Corrections. I mean suicidal,  
17 homicidal would remain if they would  
18 plan on some sort of --- being  
19 involved in some sort of disturbance  
20 or anything that would affect the  
21 security of the jail, you would be  
22 compelled to report. But again, I  
23 would advise them if there are other  
24 incidents not to indicate to me names  
25 of those particular victims or dates

1 and times.

2 Q. When you're discussing ---  
3 going back, assuming the person who  
4 is in sex offender treatment program  
5 has an actual conviction for a sex  
6 crime, would you discuss with the  
7 inmate the details of that offense?

8 A. I would ask them to discuss  
9 those with me. Certainly, because  
10 it's essential that we find out the  
11 thoughts and the cycle that might be  
12 --- which would be leading up to the  
13 acting out deviant behaviors.

14 Q. Then, so they'd have to  
15 certainly admit that they committed  
16 the offense?

17 A. Yes, treatment is voluntary.  
18 These individuals admit to their  
19 offense and come to the program  
20 voluntarily. We do not mandate  
21 anyone. I think the philosophy  
22 behind that is that these  
23 individuals, being there voluntarily,  
24 most likely would be more amenable to  
25 treatment and rehabilitation.

1 Q. Is group therapy also a part  
2 of the core treatment?

3 A. Yes.

4 Q. During the group therapy, do  
5 the inmates in the program have to  
6 discuss their sex offense of  
7 conviction?

8 A. Yes.

9 Q. And discuss the details of  
10 that offense and their commission of  
11 that offense?

12 A. Yes, in detail, yes.

13 Q. Okay. In the group therapy  
14 session?

15 A. Yes.

16 Q. Okay. If they will not admit  
17 to their offense or conviction, will  
18 they be removed from the core  
19 treatment phase?

20 A. Most likely they would. We  
21 have a coordinator of the program. I  
22 would advise that individual that a  
23 particular inmate is denying their  
24 offense. And the likelihood would be  
25 that they would be dismissed from the

1 core phase of the program.

2 Q. Okay. Can you generally give  
3 me an idea of how many individuals  
4 will be in these group sessions, the  
5 group therapy sessions?

6 A. My last group began with 15  
7 inmates in the program. During the  
8 course of treatment, there are  
9 individuals who drop out for various  
10 reasons. Some get misconducts. If  
11 one gets a misconduct, you're  
12 suspended from a program, and I'm  
13 down to eight, so around 15. And the  
14 reason for that there's a  
15 considerable number of sex offenders,  
16 I presume throughout the system. But  
17 I know in our jail the sex offender's  
18 therapeutic community block is always  
19 full.

20 Q. Okay. So each inmate  
21 participating in the core treatment  
22 phase of the sex offender treatment  
23 will have to admit their guilt to the  
24 sex offense and discuss it in detail  
25 with this group of roughly 15 or so

1 other inmates?

2 A. Yes, sir.

3 Q. As well as with yourself and  
4 any other facilitator in the group?

5 A. Yes, sir.

6 Q. Do you facilitate the groups?

7 A. Yes.

8 Q. Okay. As part of your  
9 responsibilities as a Psychological  
10 Services Specialist, do you sometimes  
11 do psychological evaluations for use  
12 by the Pennsylvania Board of  
13 Probation and Parole?

14 A. Yes, a significant portion of  
15 my job is providing them with these  
16 risk assessments or psychological  
17 evals.

18 Q. Okay. How do you get notice  
19 that you need to do an evaluation for  
20 a particular inmate?

21 A. The parole office located in  
22 the jail provides the Psychology  
23 Department with a list of those  
24 individuals for whom they wish to  
25 have a psychological evaluation. My

1 supervisor, who's a licensed  
2 psychologist manager, will then  
3 delegate responsibility as to which  
4 psychologist will do which  
5 evaluation.

6 Q. Okay. Are you involved in  
7 doing the actual evaluation?

8 A. Yes, sir.

9 Q. Is there a set pattern of  
10 tests that you have to administer in  
11 doing these evaluations?

12 A. There are some evaluation  
13 tools that are used now but --- and  
14 this is just recently. Up until that  
15 time --- let me rephrase things.  
16 When I first began my job, we used to  
17 administer the MMPI and projective  
18 testings and a lot of developmental  
19 tests and personality characteristic  
20 tests. But under this new format and  
21 this risk assessment, the Department  
22 of Corrections didn't feel that those  
23 were necessary unless asked for. And  
24 so these recent evaluations, risk  
25 assessments, we only use psychometric

1 tools if they're requested.

2 Q. Okay. You would have first  
3 started working for the Department of  
4 Corrections sometime in 1998, 1999?

5 A. In that area, yes, sir.

6 Q. Okay. And at that time when  
7 you started, when you were asked to  
8 do an evaluation, you said you would  
9 use some of these tests, the MMPI and  
10 that stuff; is that accurate?

11 A. Yes, sir.

12 Q. Okay. Did you have any kind  
13 of formal guidelines or checklist of  
14 things that, okay, you need to do  
15 this test, this test, this test, to  
16 complete your evaluation?

17 A. The guidelines, they weren't  
18 rigid as such. It depended on the  
19 individual and what guidance I would  
20 receive from my boss, who's the  
21 licensed psychologist manager. And  
22 back prior to using the critical risk  
23 assessment we used to do testing  
24 minimally MMPI on these guys every  
25 two years. If the test was two years

1 old, we'd do another one.

2 Q. Now is a new format being  
3 used?

4 A. Yes, it was felt at one point  
5 by the Department of Corrections and  
6 psychology that the risk assessment  
7 format was more valuable. And I  
8 presume parole was involved. And  
9 they felt that this was more  
10 effective for them in making whatever  
11 decisions they had to make regarding  
12 an inmate.

13 Q. So how does the new system  
14 work, the new risk assessment system  
15 work?

16 A. The new system, we interview  
17 the individual and we also evaluate  
18 their mental health. And we do  
19 review their medical files to see if  
20 they're on psychotropic meds, if  
21 they're seeing a psychiatrist. And  
22 we consult with the psychiatrist if  
23 they are. If they're not, then  
24 they're considered to be stable, we  
25 do what's called a clinical

1 interview. And based upon the  
2 information we get in the interview  
3 and the information we receive from  
4 the case file, from reviewing the  
5 case file, we make some  
6 determinations. And those  
7 determinations are risk factors based  
8 upon factual information we receive  
9 and also attenuating factors based  
10 upon that same information.

11 Q. Okay. Do you then try and  
12 give some opinion as to whether or  
13 not the person has mental health  
14 issues that would cause them to be a  
15 potential danger if released?

16 A. In the report, we would  
17 indicate if they had a mental health  
18 diagnosis, what meds they're on and  
19 any other additional factors like  
20 mental health commitments or  
21 medications, noncompliance, that sort  
22 of thing. But we don't really and  
23 shouldn't make any firm  
24 recommendation, such as this  
25 individual should not be granted

1 parole based upon or should be. We  
2 won't make a recommendation. We just  
3 provide with as much factual  
4 information as we can.

5 Q. Okay. I'm showing you  
6 Petitioner's Exhibit A.

7 (Petitioner's Exhibit A  
8 marked for  
9 identification.)

10 BY ATTORNEY PATTON:

11 Q. Does that appear to be a copy  
12 of a psychological evaluation for  
13 parole that you did on inmate, Robert  
14 Lee DeFoy?

15 A. Yes.

16 Q. Okay. And is this under the  
17 newer system that we've been talking  
18 about, where you do the risk  
19 assessment?

20 A. Yes, sir.

21 Q. The reports says on the first  
22 page, under the heading of Mental  
23 Health, it says that Mr. Robert Lee  
24 DeFoy carries a mental health  
25 stability rating of capital A, which

1 indicates that the inmate does not  
2 require mental health services at  
3 this time; is that correct?

4 A. Yes.

5 Q. Is that basically saying that  
6 your psychological staff at Houtzdale  
7 has decided that, as far as you're  
8 concerned, he doesn't need to be in  
9 any mental health treatment?

10 A. That would be based upon ---  
11 first, let me say, oftentimes I'm not  
12 familiar with these individuals and  
13 the test I'm sure has some  
14 objectivity in writing this. And so  
15 what I'll do is redo the medical  
16 files and find out if they are seeing  
17 a psychiatrist. And then this  
18 interview will also give me  
19 information as far as --- I mean,  
20 they report if they're on meds or if  
21 they're having problems. I ask them  
22 about any symptomatology. And then,  
23 obviously, I make observations while  
24 I'm speaking to them during the  
25 dialogue.

1 Q. What is a mental health  
2 stability rating?

3 A. They're four different ratings  
4 Department of Corrections uses. This  
5 as indicated A, indicates that there  
6 does not appear to be a need for any  
7 sort of mental health treatment.  
8 Then it goes to B, which means that  
9 they have received treatment, but  
10 they're now on an inactive mental  
11 health roster. A C indicates that  
12 they're in treatment and that they're  
13 active on the mental health roster.  
14 And then there's a D, which indicates  
15 they're in treatment. They're on the  
16 mental health roster, and they're  
17 considered to be seriously mentally  
18 ill.

19 Q. From what appears on your  
20 report, did your interview of Mr.  
21 DeFoy indicate that there was  
22 anything wrong with him being on a  
23 mental health stability rating of A?

24 A. According to my report on that  
25 particular date, based upon my

1 research and based upon a clinical  
2 interview, the stability rating of A  
3 seemed appropriate.

4 Q. Okay. On the second page of  
5 that document, there's a heading  
6 called Analysis of Current Evaluation  
7 Results.

8 A. Yes.

9 Q. What generally is supposed to  
10 go in that section of the report?

11 A. We indicate the degree of  
12 cooperativeness of the inmate being  
13 interviewed. And we determine if  
14 there are any disturbances of thought  
15 or mood at that point in time. And  
16 then we also --- if they were aware  
17 of mental health problems, explore a  
18 little bit about of how much insight  
19 they have into their mental health  
20 problem.

21 Q. Okay. In the first paragraph  
22 under heading of Analysis of Current  
23 Evaluation Results, the last sentence  
24 of that paragraph, does that indicate  
25 that your impression based on your

1 interview of Mr. DeFoy was that he  
2 was not suffering from any  
3 significant psychopathology at the  
4 time of the interview?

5 A. Yes.

6 Q. The next paragraph in that  
7 section talks a little bit about Mr.  
8 DeFoy denying his guilt for the  
9 offense that he was incarcerated in;  
10 is that correct?

11 A. Yes.

12 Q. Then the third paragraph ---  
13 is it accurate to state that that  
14 third paragraph is one sentence long  
15 that states, since the inmate denies  
16 guilt of a sex offense and refuses to  
17 participate in sex offender treatment  
18 this writer believes that any  
19 additional information in that report  
20 regarding Mr. DeFoy will be  
21 superfluous?

22 A. Yes, sir.

23 Q. Why did you feel that it would  
24 be superfluous to put any more  
25 information about Mr. DeFoy in the

1 report?

2 A. He was convicted of a sex  
3 offense. He was not involved in  
4 treatment. I would have extended the  
5 report had he indicated he was  
6 involved or admitted to his offense  
7 and was in treatment. However,  
8 extended it was to determine how much  
9 insight he had what his level of  
10 empathy was, how much denial might be  
11 remaining in regard to the sex  
12 offense. In this particular report,  
13 he's denying his offense. He's not  
14 involved in treatment. Therefore,  
15 none of the other information, which  
16 are usually included in such a  
17 report, would be necessary.

18 Q. So you just felt that it would  
19 not be helpful to the Board to have  
20 any more information about Mr. DeFoy?

21 A. At that time, no. It would  
22 not be helpful. Certainly, one of  
23 the factors behind this is if we have  
24 a convicted sex offender, and that  
25 individual is denying their offense

1 and vehemently aversive to any type  
2 of treatment, their likelihood of  
3 being paroled is extremely limited.

4 Q. Okay. And so since you note  
5 that he is a sex offender and  
6 refusing to participate in a sex  
7 offender treatment program, would it  
8 be fair to say in your statement that  
9 any more information would be  
10 superfluous was just the recognition  
11 of the fact that the guy's not going  
12 to get paroled and so putting any  
13 more information in than that just  
14 doesn't --- as you said, is  
15 superfluous, it's just not going to  
16 matter?

17 A. Essentially, yes.

18 Q. Has it been in your experience  
19 in the seven-plus years that you've  
20 worked as a Psychological Services  
21 Specialist for the Department of  
22 Corrections that inmates who deny the  
23 sex offense, or even just simply  
24 won't take the sex offender treatment  
25 program, that they're not going to be

1     paroled?

2     A.         In my time with the Department  
3     of Corrections, I have never known or  
4     learned of an individual being  
5     granted parole who denied their  
6     offense and was not involved in  
7     treatment. I personally do not know  
8     of anyone.

9     Q.         Would it be accurate to say  
10    that within the institution, within  
11    the therapeutic community there at  
12    Houtzdale, it's just understood among  
13    the inmates and staff that if you  
14    have a sex offense conviction and you  
15    don't do sex offender treatment  
16    program, you're just not going get  
17    released on parole?

18    A.         I would suspect yes. It's  
19    understood that both the inmates and  
20    staff would probably arrive at that  
21    conclusion.

22    Q.         Do you discuss that with any  
23    inmates when you're talking to them  
24    about whether they want to be in  
25    treatment or why they're in

1 treatment, if that's a motivating  
2 factor for them to be in treatment?

3 A. It certainly is discussed  
4 because individuals will indicate  
5 that they want help. Although,  
6 certainly not being naïve we're are  
7 aware that some individuals just  
8 simply want to be eligible for  
9 parole. So that's why they'll get  
10 involved in the program. But to  
11 answer your question, yes, that is  
12 discussed.

13 Q. You had mentioned that the sex  
14 offender treatment program is  
15 voluntary?

16 A. Yes, sir.

17 Q. If someone has been  
18 recommended to participate in the  
19 treatment, do you or anyone else  
20 involved in the sex offender  
21 treatment go out and talk with that  
22 inmate just about the program and  
23 it's availability and the fact that  
24 they've been recommended for it?

25 A. Yes, the coordinator of the

1 program and I'll step back and just  
2 provide you with what the procedure  
3 is. If an individual is convicted of  
4 a sex offense, the participation in  
5 sex offender treatment would be part  
6 of their correctional plan. And the  
7 counselor would then send a referral  
8 to the coordinator of the sex  
9 offender program, and he would  
10 interview that particular individual  
11 to determine if they're appropriate  
12 for the sex offender treatment.

13 Q. Okay. So the coordinator of  
14 the program would do that?

15 A. Yes.

16 Q. And then after that, it's up  
17 to the inmate as to whether or not  
18 they want to sign up for the program  
19 or not sign up?

20 A. Well, usually at that point in  
21 time, they sign a --- and a form is  
22 filled out indicating that they wish  
23 to participate in the program or if  
24 they don't wish to participate in the  
25 program.

1 Q. When you're doing an  
2 evaluation, a psychological  
3 evaluation for parole --- for  
4 example, in Mr. DeFoy's case, it was  
5 stated he's got the mental health  
6 stability rating of A and that based  
7 on your interview you didn't think  
8 he'd have kind of psychopathology  
9 going on at the time. Is that, for  
10 lack of a better word, your clinical  
11 assessment of, would he have mental  
12 health issues that would need to be  
13 dealt with if he was on parole so  
14 that the Board would know if you  
15 parole this person, some attention  
16 needs to be paid to his mental health  
17 or no attention needs to be paid to  
18 his mental health?

19 A. That would not necessarily be  
20 part of that particular area of the  
21 report. There are --- towards the  
22 end of the report we talk about  
23 treatments summary and there's also  
24 community treatment recommendations.  
25 In that part of the report, I would

1 recommend that they be involved in  
2 community mental health and with  
3 medication compliance monitoring that  
4 sort of thing.

5 Q. Is someone considered to have  
6 a mental health --- by definition  
7 have a mental health problem if  
8 they're convicted of a sex offense?

9 A. No.

10 Q. So those are treated as  
11 separate items, I guess, for lack of  
12 a better word?

13 A. Well, yes.

14 Q. Inter-related but separate  
15 perhaps?

16 A. Oftentimes individuals who  
17 have been to sex offender programs do  
18 have mental health problems. But  
19 conversely, there are those  
20 individuals that it's more character  
21 pathology than it is any true mental  
22 health issue.

23 ATTORNEY PATTON:

24 Those are my questions.

25 EXAMINATION

1 BY ATTORNEY BRADLEY:

2 Q. I just wanted to clear up.  
3 You had talked about that at some  
4 point you felt that, I guess it's in  
5 the middle of page two, it says  
6 inmate denies guilt of sex offense  
7 and refuses to participate in sex  
8 offender treatment. This writer  
9 believes that any additional  
10 information in the report regarding  
11 Mr. DeFoy would be superfluous. And  
12 I believe you then identified that  
13 there were, if he did admit or would  
14 be willing to participate or was  
15 participating in sex offender  
16 treatment there would be some  
17 additional areas to explore in that  
18 regard. Is that the only thing that  
19 would have been what you're talking  
20 about there in terms of Mr. DeFoy in  
21 this case or were there other things  
22 that you just simply did not explore  
23 because in your mind he wasn't going  
24 to get paroled?

25 A. Each situation provides a

1 different direction. One might go in  
2 the report, for example, if one  
3 is --- there's a history of violent  
4 behaviors, then it might be support  
5 impulse control, et cetera, et  
6 cetera. But essentially, with this  
7 particular report, this man denied  
8 his offense. He was not going to  
9 participate in treatment. My remark  
10 there was based upon the fact that,  
11 yes, he was --- my knowledge of how  
12 parole operates, they were not going  
13 to parole this man. And therefore,  
14 additional information was not  
15 necessary.

16 Q. But given that he was denying  
17 and not participating was there, I  
18 think was ultimately the question,  
19 were there other avenues that could  
20 have been explored, but you chose not  
21 to?

22 A. Yes, I chose not to ---  
23 lengthening the report would not have  
24 benefited him nor myself nor parole.

25 Q. And that was again --- bear

1 with me, was that because he was  
2 denying the offense and refusing to  
3 participate or that was because,  
4 ultimately, it was likely he was not  
5 going to be considered for parole or  
6 recommended for parole?

7 A. They have been directly  
8 related so he was not going to be  
9 involved with parole. Parole was not  
10 going to be granted to this  
11 individual based upon my knowledge of  
12 the system. And therefore,  
13 additional information just was not  
14 necessary. Maybe if you rephrased  
15 it. I'm not sure what your ---.

16 Q. I guess what I'm trying to ask  
17 is that were there any areas that you  
18 believe would have been fruitful in  
19 providing more information that you  
20 chose not to explore those areas that  
21 might have been helpful because in  
22 your mind it would have been, for  
23 lack of a better term, it would have  
24 been a waste of time because you knew  
25 the guy wasn't going to be paroled?

1 A. Yes, that's my answer, yes.

2 ATTORNEY BRADLEY:

3 That's all I have.

4 ATTORNEY PATTON:

5 I have nothing further.

6 Thank you very much.

7

8 \* \* \* \* \*

9 DEPOSITION CONCLUDED AT 12:20 P.M.

10 \* \* \* \* \*

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 COMMONWEALTH OF PENNSYLVANIA )  
 2 COUNTY OF CAMBRIA )  
 3

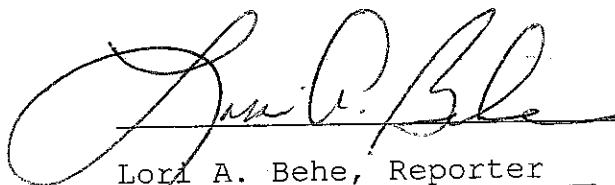
4 C E R T I F I C A T E

5  
 6 I, Lori A. Behe, a Notary Public in and for  
 7 the Commonwealth of Pennsylvania, do hereby  
 8 certify:

9 That the witness whose testimony appears in  
 10 the foregoing deposition, was duly sworn by me on  
 11 said date and that the transcribed deposition of  
 12 said witness is a true record of the testimony  
 13 given by said witness;

14 That the proceeding is herein recorded fully  
 15 and accurately;

16 That I am neither attorney nor counsel for,  
 17 nor related to any of the parties to the action in  
 18 which these depositions were taken, and further  
 19 that I am not a relative of any attorney or  
 20 counsel employed by the parties hereto, or  
 21 financially interested in this action.

22  
 23   
 24 Lori A. Behe, Reporter

25  
 NOTARIAL SEAL  
 LORI A. BEHE, Notary Public  
 Colver, Cambria County, PA  
 My Commission Expires July 20, 2010

[illegible]

PITTSBURGH, PA  
HARRISBURG, PA  
GREENSBURG, PA  
ERIE, PA  
INDIANA, PA  
HOLLIDAYSBURG, PA  
STATE COLLEGE, PA



**SARGENT'S  
COURT REPORTING  
SERVICE, INC.**

210 MAIN STREET  
JOHNSTOWN, PA 15901  
(814) 536-8908

PHILADELPHIA, PA  
WILKES-BARRE, PA  
OIL CITY, PA  
SOMERSET, PA  
CLEARFIELD, PA  
\*CHARLESTON, WV\*



SCI-Houtzdale  
Psychological Evaluation for  
Parole



Name: DEFOY, Robert Lee

Inmate #: EU9678

Closed On : 6/7/2005 8:09:13 AM

### Limits of Confidentiality

This document is considered confidential and is not to be read to the inmate nor it is to be quoted by counselor or parole agents for reviews or evaluations. Violation of the confidentiality of this report diminishes staff inmate rapport and endangers the safety of the mental health staff and the correctional institution.

Mr. Robert Lee DEFOY was advised of the purpose of the evaluation and limits of confidentiality, and he signed the Mental Health Informed Consent Document.

### Techniques Previously Administered

S.No.	Evaluation Date	Evaluation Material
1.	07/26/1993	Clinical Interview
2.	03/23/1984	MMPI - 2
3.	07/26/1993	Case file reviewed
4.	07/26/1993	Mental Health Evaluation
5.	03/23/1984	WRAT
6.	03/23/1984	BETA
7.	07/26/1993	Human Figure Drawing
8.	07/26/1993	Bender Recall
9.	07/26/1993	Bender Visual Motor Gestalt

### Techniques Administered

S.No.	Evaluation Date	Evaluation Material
1.	06/03/2005	Clinical Interview
2.	06/03/2005	Clinical Risk Assessment (Attached)
3.	06/03/2005	Mental Health Evaluation

### Mental Health

Mr. Robert Lee DEFOY carries a Mental Health Stability Rating of "A", which indicates that the inmate does not require mental health services at this time.

Psychiatric/Mental Health History says that the inmate denies any history of Mental Health treatment, and does not currently require any Mental Health services.

#### History of Suicidal Behavior:

Denies suicidal behaviors. None known at this time.

The contents of this report are confidential and the information contained in it shall not be reviewed by or shared with persons who are not members of the team.

Name: DEFOY, Robert Lee

Inmate #: EU9678

Closed On : 6/7/2005 8:09:13 AM

Referral and Background Information

Mr. Robert DEFOY is a 53-year-old man. Records do not indicate any prior adult convictions. There is no juvenile history reported. Verified problem areas listed at classification include Alcohol, Assault and Sexual. IQ was listed as 99 in the Average range. Wide range achievement testing yielded a reading grade of 6.9, spelling of 5.7 and math of 5.3. There are no misconducts reported for the preceding twelve(12) months.

No misconducts

Analysis of Previous Evaluation Results

This writer used the results of two separate personality assessments, as one of the assessments was quite old, dated 1984. The results suggested he is impulsive and unyielding. He fails to profit from past experiences, good or bad. Phallic preoccupation is suggested. The Human Figure drawings projectively indicate maladjusted behaviors and sexual insecurity."

Analysis of Current Evaluation Results

Mr. Defoy easily engaged in the interview process, which allowed rapport to be quickly, and easily established. He maintained a clear stream of thought and his affect was congruent to thought content and situation. He denied any symptoms of a major mood disorder or thought disorder. He also denied suicidal/homicidal thoughts at this time. Interview impressions were not indicative of significant psychopathology at this time.

Asked about the offense for which he is incarcerated, Mr. Defoy emphatically denied any responsibility or guilt. He claimed the allegations were fabricated by a stepdaughter as directed by the child's mother. This is the same version of events he has maintained since his arrest in this matter. He added that his legal appeal of guilt remains in the judicial system at the state level in the Supreme Court. Since Mr. Defoy denies guilt he verbalized that he has no intention to participate in sex offender treatment at this time. He is aware this will impede his chances of earning parole.

Since the inmate denies guilt of a sex offense and refuses to participate in sex offender treatment, this writer believes that any additional information in the report regarding Mr. Defoy would be superfluous.

Risk Analysis

Mr. Robert Lee DEFOY displays the following Risk Factors:

S.No.	Risk Factors
1.	History of Drug and Alcohol abuse and dependency.
2.	Failure(s) on prior release(s) (parole, probation, etc).
3.	History of violent offenses.
4.	Significant criminal history and variety of offenses.
5.	Current sex offense and/or prior sex offense(s).
6.	Family factors that include criminality and psychological problems.
7.	History of juvenile offending.
8.	School maladjustment (special education, LD, ADHD, MR, truancy, expulsion).
9.	Anger management problems.
10.	Unstable employment history.
11.	History of impulsivity.
12.	History of injuring victims.

The contents of this report are confidential and the information contained in it shall not be reviewed by or shared with persons who are not members of the treatment team.

Name: DEFOY, Robert Lee

Inmate #: EU9678

Closed On : 6/7/2005 8:09:13 AM

S.No.	Risk Factors
13.	Personality Disorder (DSM-IV) criteria
14.	Denial, lack of remorse, poor insight.
15.	Never married/unstable relationship history.

Mr. Defoy admitted that he abused alcohol in the past but denied the label of alcoholic. He said that he did not use drugs of any kind at any time. He indicated that he had violated parole on three different occasions while serving a prior sentence for armed robbery. The inmate has a long and quite extensive history of both juvenile and adult criminality. His offense history dates back to 1963 and includes numerous juvenile placements and adult incarcerations. He stated that he was in special education programs when he attended school. He quit school while in tenth grade. He claims to have earned a GED during an earlier incarceration at SCI- Dallas. This apparently has never been verified. Mr. Defoy claims to have been married three times. He has two adult children who reside in Florida. He stated that he does not maintain contacts with family members but believes that several of his brothers have also been incarcerated.

### Risk Attenuators and Treatment Summary

Mr. Robert Lee DEFOY displays the following Risk Attenuators:

S.No.	Risk Attenuators
1.	Good institutional adjustment with no misconducts within the last year.
2.	Over 35 years old.
3.	Adequate literacy skills.

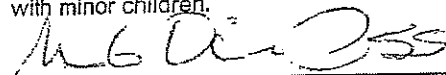
Mr. Defoy has been behaviorally non-problematic while incarcerated. He is presently 53 years old and claims that his literacy skills are satisfactory.

Staff reported that the inmate remains misconduct-free but has failed to address the goals of his correctional plan.

### Community Treatment and Risk Management Recommendation

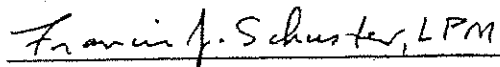
If granted parole the inmate should become involved in a sex offender treatment program.

The inmate should refrain from drug and alcohol use at all times. He should not have any unsupervised contacts with minor children.



Ocilka, Michael G

Psychological Services Specialist



Schuster, Francis J

Licensed Psychologist Manager

PA License # PS004385-L

The contents of this report are confidential and the information contained in it shall not be reviewed by or shared with persons who are not members of the treatment team.